

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 366

AN ACT

To repeal section 166.435, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education savings program, with a contingent effective date.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 166.435, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 166.421  
3 and 166.435, to read as follows:

4           166.421. 1. A participant may elect to contribute all or  
5 part of a refund of personal income tax to an account that has  
6 been established under sections 166.400 to 166.456 by direct  
7 deposit to the financial institution managing the account. The  
8 amount elected to be contributed by the participant shall be at  
9 least twenty-five dollars and shall be as a contribution only for  
10 the tax year in which the refund is issued. The election to  
11 contribute may not be changed or revoked.

12           2. The election shall be made on a form prescribed by the  
13 department of revenue and filed with the taxpayer's tax return  
14 for the tax year or at such other time and in such other manner  
15 as the department may prescribe. The department of revenue shall  
16 prescribe the maximum number of accounts to which a taxpayer may  
17 elect to contribute a portion of the refund. Notwithstanding the  
18 limit prescribed by the department, a parent or legal guardian

1 shall be permitted to contribute a portion of his or her refund  
2 to accounts held by each of his or her children.

3 3. The election to contribute all or a portion of a refund  
4 shall be void, and no portion of the refund may be contributed to  
5 an account if the taxpayer's refund is offset to pay amounts owed  
6 by the taxpayer.

7 166.435. 1. Notwithstanding any law to the contrary, the  
8 assets of the savings program held by the board, the assets of  
9 any deposit program authorized in section 166.500, and the assets  
10 of any qualified tuition savings program established pursuant to  
11 Section 529 of the Internal Revenue Code and any income therefrom  
12 shall be exempt from all taxation by the state or any of its  
13 political subdivisions. Income earned or received from the  
14 savings program, deposit, or other qualified tuition savings  
15 programs established under Section 529 of the Internal Revenue  
16 Code program, or refunds of qualified higher education expenses  
17 received by a beneficiary from an eligible educational  
18 institution in connection with withdrawal from enrollment at such  
19 institution which are contributed within sixty days of withdrawal  
20 to a qualified tuition savings program of which such individual  
21 is a beneficiary shall not be subject to state income tax imposed  
22 pursuant to chapter 143 and shall be eligible for any benefits  
23 provided in accordance with Section 529 of the Internal Revenue  
24 Code. The exemption from taxation pursuant to this section shall  
25 apply only to assets and income maintained, accrued, or expended  
26 pursuant to the requirements of the savings program established  
27 pursuant to sections 166.400 to 166.455, the deposit program  
28 established pursuant to sections 166.500 to 166.529, and other

1 qualified tuition savings programs established under Section 529  
2 of the Internal Revenue Code, and no exemption shall apply to  
3 assets and income expended for any other purposes. Annual  
4 contributions made to the savings program held by the board, the  
5 deposit program, and any qualified tuition savings program  
6 established under Section 529 of the Internal Revenue Code up to  
7 and including eight thousand dollars per participating taxpayer,  
8 and up to sixteen thousand dollars for married individuals filing  
9 a joint tax return, shall be subtracted in determining Missouri  
10 adjusted gross income pursuant to section 143.121.

11 2. If any deductible contributions to or earnings from any  
12 such program referred to in this section are distributed and not  
13 used to pay qualified higher education expenses or are not held  
14 for the minimum length of time established by the appropriate  
15 Missouri board, the amount so distributed shall be added to the  
16 Missouri adjusted gross income of the participant, or, if the  
17 participant is not living, the beneficiary.

18 3. The provisions of this section shall apply to tax years  
19 beginning on or after January 1, 2008, and the provisions of this  
20 section with regard to sections 166.500 to 166.529 shall apply to  
21 tax years beginning on or after January 1, 2004.

22 Section B. The repeal and reenactment of section 166.435 of  
23 this act shall become effective only upon notification by the  
24 State Treasurer to the Revisor of Statutes of the passage of H.R.  
25 529 of the 114<sup>th</sup> United States Congress.